

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0502P

Sales and Use Tax

January 1995 – February 1998

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated July 16, 1998 protested the penalties assessed for failure to timely remit sales and use tax due. Further, it states that they voluntarily disclosed the information, therefore no penalty should be assessed.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in remitting trust tax due timely.

Taxpayer failed to remit tax and/or timely file returns. Taxpayer states that a single individual, who was fired during early 1998 by a new management team, had performed the entire tax function. Taxpayer hired new tax personnel who reviewed both current and prior tax compliance procedures and a large accounting firm to correct prior compliance errors. Taxpayer further states that a review of prior tax compliance procedures indicated that sales tax had been charged to customers, but the entire amount had not been fully remitted. Taxpayer mailed a check for sales tax plus applicable interest on March 25, 1998 in the amount of \$19,991.14 and requests a waiver of the penalty due to significant changes in management and tax compliance personnel.

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Taxpayer was denied a voluntary disclosure agreement because the taxpayer was already registered and collecting tax. As a retail merchant, the taxpayer clearly has an obligation to collect and remit all applicable tax.

FINDING

Taxpayer's protest is denied.